

CHAPTER 137D

HOME FOOD ESTABLISHMENTS

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137D.1 Definitions.

As used in this chapter unless the context otherwise requires:

1. *"Food"* means any raw, cooked, or processed edible substance, ice, beverage, or ingredient used or intended for use or sale in whole or in part for human consumption.
2. *"Department"* means the department of inspections and appeals.
3. *"Home food establishment"* means a business on the premises of a residence in which prepared food is created for sale or resale, for consumption off the premises, if the business has gross annual sales of prepared food of less than twenty thousand dollars. However, a home food establishment does not include a residence in which food is prepared to be used or sold by churches, fraternal societies, charitable organizations, or civic organizations.
4. *"Prepared food"* means soft pies, bakery products with a custard or cream filling, or any other potentially hazardous baked goods. *"Prepared food"* does not mean nonhazardous baked goods, including but not limited to breads, fruit pies, cakes, or other nonhazardous pastries.

88 Acts, ch 1220, §7

C89, §170C.1

C91, §137D.1

137D.2 Licenses and inspections.

1. A person shall not open or operate a home food establishment until a license has been obtained from the department of inspections and appeals. The department shall collect a fee of twenty-five dollars for a license. After collection, the fees shall be deposited in the general fund of the state. A license shall expire one year from date of issue. A license is renewable.
2. A person shall not sell or distribute from a home food establishment if the home food establishment is unlicensed, the license of the home food establishment is suspended, or the food fails to meet standards adopted for such food by the department.
3. An application for a license under this chapter shall be made upon a form furnished by the department and shall contain the items required by it according to rules adopted by the department.
4. The department shall regulate, license, and inspect home food establishments according to standards adopted by rule.
5. The department shall provide for the periodic inspection of a home food establishment. The inspector may enter the home food establishment at any reasonable hour to make the inspection. The department shall inspect only those areas related to preparing food for sale.

6. The department shall regulate and inspect food prepared at a home food establishment according to standards adopted by rule. The inspection may occur at any place where the prepared food is created, transported, or stored for sale or resale.

88 Acts, ch 1220, §8

C89, §170C.2

C91, §137D.2

137D.3 Penalty.

A person who violates a provision of this chapter, including a standard adopted by departmental rule, relating to home food establishments or prepared foods created in a home food establishment, is guilty of a simple misdemeanor. Each day that the violation continues constitutes a separate offense.

88 Acts, ch 1220, §9

C89, §170C.3

C91, §137D.3

137D.4 Injunction.

A person operating a home food establishment or selling prepared foods created at a home food establishment in violation of a provision of this chapter may be restrained by injunction from further operating that home food establishment. If an imminent health hazard exists, the home food establishment must cease operation. Operation shall not be resumed until authorized by the department.

88 Acts, ch 1220, §10

C89, §170C.4

C91, §137D.4

137D.5 Duty of county attorney.

The county attorney in each county shall assist in the enforcement of this chapter.

88 Acts, ch 1220, §11

C89, §170C.5

C91, §137D.5

137D.6 Conflicts with state building code.

Provisions of this chapter, including standards for home food establishments adopted by the department, in conflict with the state building code, as adopted pursuant to section 103A.7, shall not apply where the state building code has been adopted or when the state building code applies throughout the state.

88 Acts, ch 1220, §12

C89, §170C.6

C91, §137D.6

2004 Acts, ch 1086, §39

Section amended

137D.7 Reserved.

137D.8 Suspension or revocation of licenses.

The department may suspend or revoke a license issued to a person under this chapter if any of the following occurs:

1. The person's home food establishment does not conform to a provision of this chapter or a rule adopted pursuant to this chapter.
2. The person violates a provision of this chapter or a rule adopted pursuant to this chapter.
3. The person conducts an activity constituting a criminal offense in the home food establishment and is convicted of a serious misdemeanor or a more serious offense as a result.

91 Acts, ch 107, §10

137D.9 Exemption. Repealed by 99 Acts, ch 208, § 41.